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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,459	01/31/2002	Eyal Eliav	IR 6765-00	2195

7590

04/22/2004

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EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/066,459	<b>Applicant(s)</b> ELIAV ET AL.	
	<b>Examiner</b> Randall Chin	<b>Art Unit</b> 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.  
     4a) Of the above claim(s) 8-15 and 22-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08212003</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 8-15 and 22-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the Paper filed April 8, 2004.
2. Applicant's election with traverse of the species of Figs. 1-10A, claims 1-7 and 16-21 in the Paper filed April 8, 2004 is acknowledged. The traversal is on the ground(s) that the subject invention relates solely to power drive toothbrushes having new and novel drive linkages to drive multiple bristle platform configurations therein. Applicant asserts that an initial search of the prior art will clearly reveal the patentability of alternative versions of drive linkages involved therewith and that there is no extra burden upon the Examiner for additional searching past the initial search. This is not found persuasive because Applicant admits that there are varying types or species of drive linkages for multiple moving bristle platforms. Further, Applicant has not alleged that these species are not patentably distinct from each other. The mere fact that an initial search of the prior art may reveal the patentability of alternative versions of drive linkages for multiple moving bristle platforms does not preclude an election requirement from being made.

The requirement is still deemed proper and is therefore made FINAL.

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3. Claim 3, line 2, the recitation "said secondary tuft block is being round block" is awkwardly written. Similarly, claim 17, lines 2-3, the recitation "said secondary tuft block is being round block" is awkwardly written.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Prineppi 2003/0066145 (hereinafter Prineppi '145).

Prineppi '145 discloses with respect to claim 1 a powered toothbrush having a handle at 2, a head 3 mounted to said handle, a primary tuft block mounted in said head, said primary tuft block 4 having exposed bristles 9 extending outwardly from said head, a secondary tuft block 5 mounted in said head at a location displaced from said primary tuft block, said secondary tuft block having exposed bristles 11 extending outwardly from said head, a drive assembly in the handle (Figs. 2, 3 and 6) including a drive connection to the primary tuft block in the form of a "direct drive" (see paragraph [0025]) from a shaft 14 axially extending from a motor 27 to the primary tuft block to oscillate said primary tuft block back and forth, and a drive transmitting connection (pin

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19 in Figs. 2 and 3) connecting said primary tuft block to said secondary tuft block for moving the secondary tuft block back and forth in an oscillating manner in response to the movement of the primary tuft block while the primary tuft block is being oscillated (see paragraphs [0022] to [0023]).

As for claim 2, there is a pivot pin or shaft 12 (Fig. 2) mounted in the head 3, and the primary tuft block 4 is rotationally mounted on said shaft.

As for claim 3, said primary tuft block is a round block having a generally circular cross-sectional shape, said secondary tuft block is a round block having a general circular cross-sectional shape (Fig. 3), and said secondary tuft block 5 is rotationally mounted on a pivot pin or post 13 whereby said back and forth movement of said secondary tuft block is a rotational oscillating movement.

As for claim 4, said drive transmitting connection comprises a finger 19 in one of said primary tuft block and said secondary tuft block located in a slot or cutout 20 in the other of said primary tuft block and said secondary tuft block (Figs. 2 and 3).

As for claim 6, said secondary tuft block is mounted outwardly of said primary tuft block with said primary tuft block 4 being between said secondary tuft block 5 and said handle, and said secondary tuft block being of the same size as said primary tuft block as can be seen in Fig. 3.

With respect to claim 16, Prineppi '145 discloses a powered toothbrush having a handle at 2, a head 3 mounted to said handle, a primary tuft block 4 rotationally mounted in said head on a first pivot pin or shaft 12, said primary tuft block 4 having exposed bristles 9 extending outwardly from said head, a secondary tuft block 5

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rotationally mounted in said head on a second pivot pin or shaft 13 at a location displaced from said primary tuft block, said secondary tuft block having exposed bristles 11 extending outwardly from said head, a drive assembly in the handle (Figs. 2, 3 and 6) including a drive connection to the primary tuft block to rotationally oscillate the primary tuft block back and forth and a drive transmitting connection (pin or finger 19 on the primary tuft block located in a slot or cutout 20 in the secondary tuft block shown in Figs. 2 and 3) connecting said primary tuft block to said secondary tuft block back and forth in an oscillating manner in response to the movement of the primary tuft block while the primary tuft block is being oscillated (see paragraphs [0022] to [0023]).

As for claim 17, said primary tuft block is a round block having a generally circular cross-sectional shape, said secondary tuft block is a round block having a general circular cross-sectional shape, said cutout 20 being in said secondary tuft block, and said finger 19 being in said primary tuft block (Figs. 2 and 3).

As for claim 18, said primary tuft block and said secondary tuft block are of the same size (Fig. 3).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 5, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prineppi '145.

As for claims 5 and 20, said secondary tuft block 5 is mounted outwardly of said primary tuft block 4 with said primary tuft block being between said secondary tuft block and said handle 2. With regards to the secondary tuft block being of lesser size than said primary tuft block, Prineppi '145 does teach in paragraph [0008] that one or more of the brush heads may be of different diameter to the first brush head thus suggesting to one skilled in the art to make the secondary tuft block of lesser size than said primary tuft block for the purpose of adapting the brush head to a child user or simply for varying the total brush head cleaning surface area.

As for claim 19, said primary tuft block and said secondary tuft block each include a cutout 18, 20, respectively, and said finger so as to be interchangeable (this would be inherent) during assembly. Note that Prineppi '145 teaches in paragraph [0008] that the principle of the primary tuft block driving a secondary tuft block can be extended to drive a third tuft block. Specifically, Prineppi recites that the same principle can be used to drive more than a second brush head and, in turn, the secondary tuft block could drive a third tuft block, and so on. One skilled in the art would recognize from this teaching that the secondary tuft block would be identical or very similar to the primary tuft block in order to drive this third tuft block. In other words, both the primary tuft block and the secondary tuft block would each include a cutout and said finger arrangement and thus meet the claimed limitations.

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8. Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prineppi '145 in view of Cyzer '449.

Prineppi '145 teaches all of the recited subject matter as previously recited with the exception of the bristles on at least one of said primary tuft block and said secondary tuft block include bristles of different configuration and material than other bristles on said at least one of said primary tuft block and said secondary tuft block. It is well known in the toothbrush art to provide for various combinations and configurations for various types of "bristle" arrangements on a toothbrush head (e.g., natural bristles, rubber bristles, massage elements, bristles of different cross-sections, etc.). The patent to Cyzer '449 teaches in Figs. 4 and 5 that "bristles" on at least one tuft block 11, 11a include "bristles" of different configuration and material than other bristles on another tuft block at 4b, for example. The tuft block 11, 11a includes "bristles" of rubber staffs in a different configuration and of a different material than the regular bristles of tuft block 4a (col. 2, line 67 to col. 3, line 4). It would have been obvious to one skilled in the art to have modified Prineppi's "bristle" arrangement such that the bristles on at least one of said primary tuft block and said secondary tuft block include bristles of different configuration and material than other bristles on said at least one of said primary tuft block and said secondary tuft block as suggested by Cyzer '449 for the purpose of varying the cleaning effect of the "bristles" on the teeth, for example, providing for a massaging effect.



**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Belaschk, Cafaro, Tan, Mei, and Kuo are pertinent to various toothbrushes having multiple driven tuft blocks.

10. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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R. Chin



Randall Chin  
Primary Examiner  
Art Unit 1744